

State Hazardous Air Pollutant Rule Final

The Wisconsin Natural Resources Board (NRB) and the Legislature approved changes to the proposed revisions to ch. NR 445 and other related chapters of the Wisconsin Administrative Code, the state hazardous air pollutant (HAP) rule. Department of Natural Resources (DNR) expects the rule revisions, as approved, to be effective July 1, 2004.

Why Revise the Rule?

DNR proposed the revisions for a number of reasons. The existing rule had not been updated since 1988 and was based on 1985 data available from national and international scientific organizations. Many changes to the understanding of which chemicals cause health effects, and whether those effects are cancer-related or not, have occurred since then. These changes were reflected in the 2000

data from those groups that was used for the proposed revisions. Based on the 2000 data, DNR proposed adding 152 chemicals and removing 5 chemicals as well as increasing (make less stringent) the standards for 86 chemicals while reducing (make more stringent) the standards for 126 chemicals.

Background

The DNR's Air Program has been working on a revision to their HAP rule since early 2000. DNR sent a proposal to the DNR Natural Resources Board for approval at their April 2002 meeting. DNR then held public hearings on the proposed revisions in August 2002. After responding to the public comments, the revised rule was then sent to the Legislature for its review.

(continued on Page 3)

New From the Small Business Clean Air Assistance Program...

✓ USEPA's Consolidated Screening Checklist for Automotive Repair Facilities Guidebook - limited copies

✓ Air Permit Compliance Calendar

✓ Documenting Your Environmental Management Plan

To order:
call (608) 264-6153
or (608) 267-9214;
fax (608) 267-0436;
or email CleanAir@commerce.state.wi.us

Giving Kids a Safer Ride to School

School buses may be the safest way for children to get to school, but they emit particle pollution, diesel toxins, carbon monoxide and ozone precursors into the air, affecting everyone's health, especially that of children waiting at bus stops and riding on the buses.

In response to this air quality concern, the DNR obtained a grant to install emission control devices (retrofits) on approximately 375 diesel school buses in southeastern Wisconsin. The retrofitting will involve the installation of diesel

(continued on Page 2)

In This Issue...

Article	Page
Safe Ride.....	2
State Hazardous Air Pollutant Rule.....	3
E-Take Back.....	4
MACT Standards.....	4
Ozone Depleting Substances.....	4
Green Tier.....	5-6
8-Hour Ozone Standard.....	7
DERF Program.....	8

Safer Ride to School

(cont from Page 1)

oxidation catalysts, similar to catalytic converters on cars. These low-maintenance devices reduce diesel emissions between 20-50% and have little to no impact on fuel consumption or power.

Retrofitting will be targeted at buses in the severe ozone non-attainment counties of



Kenosha, Milwaukee, Ozaukee, Racine, Washington and Waukesha. If money remains after DNR reaches their goal or if they receive more funding, DNR will then target buses in the other non-attainment counties of Door, Kewaunee, Manitowoc and Sheboygan.

The main goal of the school bus retrofit program is to reduce the environmental and health impacts from diesel exhaust by installing retrofit technology on buses and encouraging school districts and bus companies to develop anti-idling strategies. The emission reductions from this voluntary program will also serve as a replacement for the regulatory Clean Fuel Fleet Program.

With your help, this program can be a huge success. The DNR is recruiting sponsors for the program since the grant requires a 20% match. DNR is seeking financial support from businesses and organizations in the area, community groups, Parent Teacher Associations, and individuals. Two *Wisconsin Partners for Clean Air* businesses have already made generous donations of \$5,000 each! These donations will help greatly, but we have a long way to go. Each retrofit device costs approximately \$1,500-2,500 so a donation of \$300-500 provides the 20% match needed to make one bus cleaner. Of course donations in any amount are greatly appreciated and will be publicly recognized in various ways.

Anyone interested can send a tax-deductible donation payable to **WDNR Diesel School Bus Retrofit Project** to:

Diesel Exhaust & Your Health

(from EPA420-F-02-048, Sept. 2002)

* Diesel exhaust contains tiny particles known as fine particulate matter. These tiny or "fine" particles are so small that several thousand of them could fit in the period at the end of this sentence. Diesel engines are one of the largest sources of fine particulate matter.

* Fine particles in the air are a serious health problem. They pose a significant health risk because they can pass through the nose and throat and become lodged in the lungs. Fine particles can cause lung damage and premature death. They can also aggravate respiratory conditions such as asthma and bronchitis. Diesel exhaust is likely to cause cancer in humans.

* Nationwide, particulate matter, and especially the fine particles such as those in diesel exhaust cause 15,000 premature deaths every year. ❖

Department of Natural Resources
School Bus Project AM/7
PO Box 7921
Madison WI, 53707-7921

Please contact Jessica Lawent if you would like to participate, have questions or would like free diesel/school bus literature. Call Jessica at 414-263-8653, or email

Jessica.Lawent@dnr.state.wi.us. ❖

State Hazardous Air Pollutant Rule Final

(cont. from Page 1)

Delayed

Representative Johnsrud and Senator Kedzie chaired a joint public hearing on the proposed revisions in front of the Senate and Assembly Natural Resources Committees on May 22, 2003 to hear testimony on the revised rule. They received many comments on the rule.

Following the public hearing, the Assembly's Natural Resources Committee held an Executive Session on May 28, 2003. They sent the rule back to DNR, recommending changes, but did not give any details on what changes they think should be made. This allows the Committee an additional 10-day review when DNR brings the rule back to the Legislature.

Rule Changes

Based on discussions with the legislators that had concerns with the rule, DNR changed a few things:

- ✓ Removed 41 chemicals because of the low probability of being emitted in Wisconsin.
- ✓ Exempted current diesel generators from particulate matter standards if retired from service by December 31, 2010.
- ✓ Granted Agriculture and Livestock operations a three-year exemption from NR 445 and permitting requirements for agricultural emissions of HAPs. The exemptions apply to existing operations and to those that start up or expand during the three-year period.

These changes were approved by the NRB at their meeting in February 2004. Once the NRB approved the changes, the Legislature had their 10-day review period. They had

no additional comments, so the rule went to the DNR Secretary for his signature.

When is the Rule Effective?

Facilities must report emissions on the new compounds starting in 2005 for the 2004 operations year. If the effective date is July 1, 2004, as DNR expects, compliance with the rule for sources emitting any of the new chemicals or who are subject to the rule for the first time due to the lowering of the standards will be required by June 30, 2007.

Those with potential emissions greater than the thresholds in the rule for carcinogenic HAPs subject to control

requirements are required to submit a compliance plan by January 1, 2006 (18 months after July 1, 2004). DNR will develop assistance documents and fact sheets that will be posted to the DNR's web site as soon as they are available.

Training Workshops

DNR is working closely with the Department of Commerce Small Business Clean Air Assistance Program (SBCAAP), the UW - Extension Solid and Hazardous Waste Education Center (SHWEC) and the Federation of Environmental Technologists (FET, Inc.) to co-sponsor training workshops this fall. See the box on this page for the dates.

You may receive mailings about the training workshops from one or more of the organizations mentioned. FET, Inc. will coordinate registration. For more information visit: ❖

<http://dnr.wi.gov/org/aw/air/hot/NR445rev/NR445rev.htm>

Training Dates 2004

October 12	Eau Claire
October 13	Wausau
October 14	Milwaukee
October 19	Neenah
October 20	Madison
October 21	Racine

Environmental Protection Agency Updates

E-Take Back

At an annual International Consumer Electronics Show (CES) in January, the Environmental Protection Agency (EPA) announced a new partnership with Staples and the Product Stewardship Institute to test a pilot "take-back program" as a new approach for recycling used electronics. Staples will take unwanted electronic products in participating stores in the Northeast states during the pilot.

The new partnership is part of EPA's "Plug-In To eCycling" campaign that promotes electronics recycling by working with manufacturers and retailers. Electronics contain valuable materials such as steel and precious metals, which can be recycled, along with hazardous materials such as lead.

At Wisconsin Staples stores you can drop off used personal digital assistants (PDAs), pagers, inkjet cartridges, cell phones (including equipment). To find out more visit www.plugintoecycling.org. ❖

MACT Standards

On February 26, 2004, just a few days before the court ordered deadline, EPA signed off on four more MACT (Maximum Achievable Control Technology) Standards. These standards are issued to establish controls that reduce hazardous air pollutant emissions from specific source categories. The four source categories for which standards were signed are:

- ✓ Auto and Light Duty Truck - Surface Coating
- ✓ Industrial Boilers, Commercial/Institutional Boilers and Process Heaters (no burning of hazardous waste)
- ✓ Reciprocal Internal Combustion Engines
- ✓ Plywood and Composite Wood Products

The Auto and Light Duty Truck MACT has been published in the federal register on April 26, 2004 and is now effective. Affected sources must submit an Initial Notification to DNR by April 26, 2005. ❖

Ozone Depleting Substances

An enforcement case related to EPA's Ozone Depleting Substances (ODS) rule under Title VI of the Clean Air Act, resulted in a \$5.25 million penalty on Sara Lee Corporation. Many other bakeries have entered into a special program with EPA to avoid penalties by agreeing to retrofit or replace most, if not all, of their ODS containing equipment.

According to the leak detection and repair requirements in 40 CFR Part 82, if an industrial operation has equipment that contain more than 50 total pounds of some refrigerants they are covered by this rule. If the leak rate for a unit goes above a set level, a company is required to either follow the leak repair requirements or set up a retrofit or replacement plan for the unit.

If the leak repairs do not achieve the required results, the company is allowed a second repair attempt based on certain criteria. Otherwise they must also submit a retrofit or replacement plan.

EPA has a full page of guidance documents on these regulations:

<http://www.epa.gov/ozone/title6/608/compguid/compguid.html>

Wisconsin rules related to equipment using ozone depleting refrigerants can be found in COMM 45 and NR 488 of the Wisconsin Administrative Code. These rules do not overlap with EPA's requirements for leak detection and repair. ❖

The Business Case for Green Tier

Green Tier

Green Tier offers a way for regulated and unregulated entities to go beyond compliance, address unregulated problems and restore natural resources in return for incentives that are in proportion to superior performance. Green Tier focuses environmental protection work with communities and industries and provides legal standing for that work comparable to that of the current regulatory system.

Development of the concept and then legislative language has been progressing since 1997. The final rule was signed by the Governor on April 16, 2004.

The Business Case

While most companies can achieve compliance with environmental regulations, too often the focus is on a minimum level of compliance. Economically beneficial approaches to innovative pollution prevention and enhanced environmental performance are, unfortunately, not considered. Green Tier, through a system of legally binding charters and contracts, encourages companies to think creatively about how they can improve their environmental performance and, as a result, improve productivity, reduce costs or grow their business.

Green Tier legislation allows for increased economic benefits for given environmental expenditures and is designed to recognize outstanding environmental performance. Building on the experience of innovative regulatory programs, Green Tier offers responsible Wisconsin companies the opportunity to modify their existing environmental programs in a manner that makes good business and environmental sense.

Green Tier supports companies that would like to pursue enhanced environmental performance - whether they're large or small. The law accommodates both.

Are There Economic Benefits?

The provisions allow the DNR and companies to tailor innovative regulatory proposals specific to their particular operation and needs. The second level of Green Tier provides both the applicant and the DNR the ability to negotiate a legally binding agreement that is unique to their business operation and that has the potential to offer measurable economic benefits.

Permit and Decision Streamlining – Green Tier has the potential to reduce the turn around time on permits and other DNR decisions - reducing internal environmental staff effort, legal counsel, and consultant costs.

Permit Exemptions – Although existing rules provide construction permit exemptions for very minor projects, under a Green Tier pilot program, one major facility was granted a broader construction permit exemption as long as certain air emission parameters were not exceeded.

Testing and Installation of New Technologies – Approval and permit exemptions for the testing and installation of new technologies, especially for energy conservation or emission reductions, has been approved.

Forward Thinking – The law encourages businesses to look at how they can improve their environmental performance while also providing economic gain. This could include
(continued on Page 6)

Business Case for Green Tier (continued)

meshing business practices related to accelerated depreciation of capital equipment, managing their supply chain, anticipating international demands and securing the necessary regulatory approval to secure required capital.

More Efficient Monitoring, Recordkeeping and Reporting – If a facility has a strong compliance record combined with a well managed environmental program, a series of contracts that allow more practical and effective monitoring and reporting than currently is required can be negotiated. One pilot program facility was able to reduce its monitoring and record-keeping equal to approximately one half-time staff equivalent. Another reporting facility reduced their annual monitoring submittals from approximately 230 pages per year to five.

Innovative Technical Solutions – Green Tier encourages companies to propose innovative environmental and production solutions that have long-term economic and environmental benefits. One imaginative proposal approved under a pilot program utilized the ash normally sent to landfills to replace the energy recovered from over 300 railroad cars of coal. This dramatically reduced the ash being sent to landfills, provided a new energy source and helped reduce overall costs. The reduction was achieved in less than two years.

The actual business value offered by Green Tier legislation, measured in simple economic terms, will vary according to each business and their imagination. Over time Green Tier will be successful and businesses and the environment will benefit only with wide spread acceptance and participation in the program.

What Is the Intangible Value?

Besides the potential for measurable economic and environmental returns stemming from Green Tier participation, a company may also realize intangible benefits.

Regulatory Recognition – Participants in a Green Tier program will be publicly recognized by the DNR.

Improved Agency Relations – Green Tier participation can improve communication with the DNR and provide a greater appreciation of mutual goals.

Employee Pride – Facilities that participate in innovative regulatory programs often see an increased level of employee pride and ownership in environmental activities and the business in general.

Branding – Superior environmental performance achieved through a Green Tier program can be used as a marketing advantage and to help support a company's brand equity.

For more information about Green Tier
Contact DNR's mark McDermid at 608-267-3125, or visit:

dnr.wi.gov/org/caer/cea/environmental/index.htm



Hot Topics in DNR's Air Program

Nonattainment Areas for 8-Hour Ozone Standard Set

On April 15, 2004, the EPA released its final determinations of which counties are nonattainment for the 8-hour ozone standard. In Wisconsin, these areas/counties have been designated nonattainment:

- ✓ Milwaukee/Racine Consolidated Metropolitan Statistical Area (CMSA):
 - Milwaukee County
 - Ozaukee County
 - Racine County
 - Washington County
 - Waukesha County
- ✓ Kenosha County
- ✓ Sheboygan County
- ✓ Door County
- ✓ Kewaunee County
- ✓ Manitowoc County

Issues regarding whether or not Jefferson County would be included were settled and EPA considers the county in attainment at this time.

What Does Nonattainment Designation Mean for Counties?

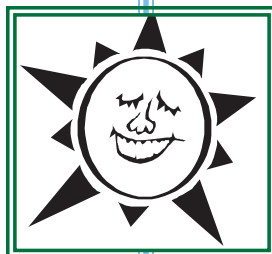
The most immediate result of these designations will be the changes to the New Source Review permit levels. On June 15, 2004, the major source level for emissions of nitrogen oxides (NO_x) goes from 250 tons per year (TPY) to 100 TPY for all ten counties. For the four counties that are in attainment with the 1-hour ozone standard, their major source for emissions of volatile organic compounds (VOCs) is also 100 TPY.

The six counties still in nonattainment with the 1-hour standard (Milwaukee/Racine CSMA) will retain the present major source level for VOCs at 25 TPY for the next year. On June 15, 2005 the major source level for VOCs will go up to 100 TPY.

What Other Requirements Will Apply?

Based on the implementation plan rule that EPA will publish some time this summer, DNR will have

to develop a State Implementation Plan (SIP) that will show how the state will come into attainment with the standard. Wisconsin will have to meet the initial attainment dates set by EPA, which are in 2009 and 2010. Certain elements of the new plans will have to be effective prior to the 2008 ozone season.



It will take DNR, working together with other states in the Great Lakes area, the next two to three years to develop a final SIP that will be submitted to EPA. A SIP will likely include many elements like those presently in place in the counties that border Lake Michigan. Those elements may include: a vehicle inspection and maintenance (I/M) program, reasonable available control measures for industrial sources, lower thresholds for major new source review permits (mentioned above), and offsets for the emissions from proposed new construction or modifications.

DNR may find that through computer modeling and the different variations of emissions reductions that can be achieved by each of these elements, they need to try different things to reach attainment by EPA's deadlines. For example, DNR might decide they need to expand the area affected by controls and/or maybe even lower the thresholds for major new source review (instead of 100 TPY, set it at 50 TPY). DNR staff know these issues will affect many businesses and citizens throughout the state, and will involve as many as possible in their decision-making process.

If you would like more information on this issue you can go to DNR's website at:

<http://dnr.wi.gov/org/aw/air/HOT/TaskForce/index.htm>

or you can contact Robert Lopez at 608/267-5284.

For the basics on ozone formation go to:

<http://dnr.wi.gov/org/aw/air/health/ozone.htm>.



2008 is the Deadline for Participation in the Dry Cleaner Environmental Response Fund (DERF) Program!

The deadline date for participation in the DERF program was changed in the spring '04 legislative session, at the request of the Wisconsin Fabricare Institute (WFI) and the Department of Natural Resources (DNR). If you are an eligible applicant interested in participating in the DERF program, you now have until August 30, 2008 to submit the Potential Claim Notification Form to DNR! The DNR is required to deny participation in the program to eligible applicants whose forms are not postmarked by August 30, 2008.

Why the change?

The original law specified two deadlines for submittal of reimbursement applications, depending on whether a facility was closed or operating after January 1, 1998. Therefore, cleanup costs needed to be incurred by those dates. For many sites, the completion of a cleanup can take several years. WFI and DNR were concerned that having deadline dates for the

completion of cleanups could result in higher cost, but shorter term remedies being selected rather than selecting the most cost-effective remedy for the site. The WFI and the DNR realize that selected cleanup technologies should be based on compliance with the cleanup rules that require consideration of technical and economic feasibility based on site-specific conditions. In addition, the original law could have also created a situation where otherwise eligible costs were incurred but not reimbursed because they were incurred after the deadline date. The change in law sets the deadline for entering the program, not for completing your cleanup. That timeline will be based on site specific conditions and technologies.

The Potential Claim Notification Form, contact information, and other publications by the Remediation and Redevelopment program can be found on DNR's website at: dnr.wi.gov/org/aw/rr/financial/dryclean



WISCONSIN DEPARTMENT OF COMMERCE

The Small Business Clean Air Advisor is published by the Wisconsin Department of Commerce, Cory L. Nettles, Secretary. To obtain free copies or to be placed on the mailing list, contact:

SBCAAP

201 W. Washington Ave,
P.O. Box 7970
Madison, WI 53707
Phone: 608/264-6153
Fax: 608/267-0436
Email: CleanAir@commerce.state.wi.us

Visit us at:
www.wienvirohelp.com



Serving Small Businesses and
the Environment in Wisconsin

PRSRT STD
U.S. POSTAGE
PAID
MADISON, WI
PERMIT NO. 1369

If addressee unknown, please route to appropriate person:

- ☐ Environmental Manager,
- ☐ Health & Safety Manager,
- ☐ Plant Manager, or
- ☐ Owner/President